



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

939 WRIT PETITION NO. 5442 OF 2022

Abuj Appasaheb Kashinath
Age: 56 years, Occu.: Service,
R/o. Beed, Tq. & Dist. Beed.

.. Petitioner

Versus

1. The State Of Maharashtra
Through its Secretary, Education
& Sports Department Mantralaya,
Mumbai-32.
2. The Education Officer (Primary)
Zilla Parishad Beed, Dist. Beed.
3. The Secretary, Jijamata Shikshan
Prasarak Mandal Marathwada
Udyog Mandal, Shahu Nagar,
Jalna Road Beed.
4. The Head Master,
Chatrapati Shahu Primary School,
Shau Nagar Beed.

.. Respondents

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Mr. C. V. Thombre, Advocate for the Petitioner.
Mr. P. P. Dawalkar, AGP for Respondent No.1 – State.
Mr. P. D. Suryawanshi, Advocate for Respondent No.2.
Mr. K. J. Suryawanshi, Advocate for Respondent No.4.

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**CORAM : MANGESH S. PATIL AND
SHAILESH P BRAHME, JJ.**

DATE : 27 JUNE 2024

JUDGMENT (Per Mangesh S. Patil, J.) :-

Rule. Rule is made returnable forthwith. With the consent of parties
heard finally.

2. The petitioner has been claiming to be a trained graduate teacher so held by the Education Officer by the communication dated 09.08.2021 and is aggrieved by the fact that in spite of such a decision by the Education Officer, the respondent Management and the School have not been implementing that decision.

3. It transpires that, the petitioner was already before this Court in earlier round in Writ Petition No.6062 of 2017 with the selfsame grievance. By the order dated 22.09.2018, the Education Officer (Primary) was directed to decide the proposal dated 25.10.2012. In the light of that direction, as stated in the decision taken by him on 09.08.2021 that the petitioner was held to be a trained graduate teacher.

4. It is being submitted by the learned Advocate for the respondent Management, the communication stated to be the proposal dated 25.10.2012 was in fact addressed by the Headmaster to the Education Officer (Primary) soliciting an opinion in respect of grant of pay scale to the petitioner as a trained graduate teacher and it was not a proposal.

5. Be that as it may, the Education Officer seems to have issued the communication to the Headmaster simply by referring to direction of this Court in Writ Petition No.6062 of 2017. The communication does not indicate about he having undertaken any objective scrutiny of all the

aspects. *Ex facie*, it appears that only because of the directions of this Court to consider the proposal, this communication dated 09.08.2021 was issued.

6. Needless to state that the entitlement of a pay scale of a trained graduate teacher would be subject to several parameters laid down by the rules and regulations as well as Government Resolutions holding the field like Government Resolution dated 11.11.2011.

7. It is thus apparent that though it is a matter of fact that the Education Officer apparently has taken a decision regarding petitioner's entitlement it is sans any enquiry into all the variables and factual aspects.

8. It does appear that the respondent Management, for whatever reasons, has not been cooperating with either the Education Officer or was keen to independently contest the petitioner's claim. It was a party in Writ Petition No.6026 of 2017, however, chose not to appear. There is material to demonstrate that Management has been alive to the petitioner's claim and still has chosen not to approach the Education Department much less after the decision was taken by the Education Officer by the communication dated 09.08.2021.

9. The petitioner has been fighting for a pay scale. Indifferent attitude

of the Management has led to the situation. The earlier writ petition was decided more than seven years ago and even the decision of the Education Officer is of the year 2021. The Management has not taken any steps to resort to any appropriate legal remedy. It is merely opposing the petitioner's request. It would demonstrate adamant attitude of the Management.

10. Be that as it may, the decision of the Education Officer being devoid of sufficient and cogent reasons much less preceded by objective scrutiny of all the relevant factors would be vulnerable in as much as, entitlement of the petitioner would depend upon several factors. The direction of this Court in the earlier round was merely to consider the proposal and not holding the petitioner entitled to have the scale.

11. In the circumstances, it would be appropriate that the communication dated 09.08.2021 of the Education Officer is quashed and set aside and the matter is relegated to him for taking a decision afresh on its own merits and directing the Management and the Headmaster to cooperate with the Education Officer in arriving at a decision by furnishing the record. Since simultaneously we have demonstrated that it is a lapse on the part of the Management, we are inclined to impose some costs on the Management well.

12. The Writ Petition is allowed partly.
13. The decision of the Education Officer dated 09.08.2021 is quashed and set aside.
14. The petitioner as well as the Headmaster of the Management shall appear before the respondent – Education Officer on 08.07.2024 with all the record with them and shall cooperate the Education Officer in arriving at a decision regarding entitlement of the petitioner of pay scale of a trained graduate primary teacher. The decision shall be taken as expeditiously as possible and in any case, within a period of four (4) weeks from the date of appearance of the parties before him.
15. The Management shall pay to the petitioner directly or shall deposit a cost of Rs.10,000/- in this Court within a period of two weeks. The petitioner shall be entitled to claim it if it is deposited in the Court.
16. Rule is made absolute in the above terms.

[SHAILESH P. BRAHME]
JUDGE

[MANGESH S. PATIL]
JUDGE

scm